

UMPA August 2014

Some relevant provisions related to records in misdemeanor cases:

Records Public Unless Otherwise Designated - [UCA § 63G-2-201\(2\)](#)

Sharing Records between agencies - [UCA § 63G-2-206](#)

- Designation of record is the decision of the entity which provides the record to requesting entity - requesting entity required to maintain that designation

Discovery & Subpoenas - [UCA § 63G-2-207](#)

- A subpoena is not a GRAMA request
- Private/protected/controlled records are privileged from discovery absent a court order
- Court may limit use or further disclosure of such records by court order

Public Records - [UCA § 63G-2-301](#)

- Not an exhaustive list - representative only
- Includes: policy documents (personnel or police policy manuals), initial contact reports, arrest & search warrants
- Records that disclose information related to formal charges or disciplinary actions against a past or present governmental employee if: (1) the action has been completed and periods for administrative appeal have expired, and (2) the charges upon which the disciplinary action was based were sustained.

Private records - [UCA § 63G-2-302](#)

- Includes medical records, employment records containing certain information
- "Other records containing data on individuals the disclosure of which constitutes a clearly unwarranted invasion of personal privacy."

Controlled records - [UCA § 63G-2-304](#)

- Medical or psychiatric records - disclosure to patient (or others) would be detrimental

Protected records - [UCA § 63G-2-305](#)

- Records created for civil, criminal or administrative enforcement purposes, if release could:

- Reasonably be expected to interfere with an ongoing investigation;
 - Reasonably could interfere with enforcement proceedings;
 - Would create a danger of depriving a person of a right to a fair trial or impartial hearing
 - Reasonably could be expected to disclose the identity of a source not known outside of government or disclose information which would compromise the source (C.I. rule); or
 - Disclose investigative techniques, procedures or policies not known outside of government and which would interfere with enforcement.
- Records which would jeopardize the life or safety of an individual.
 - Records subject to attorney client privilege

Other provisions governing specific records:

- Vehicle accident reports – [UCA § 41-6a-402](#) – access restricted to involved parties & prohibits its use in court as evidence
- Child abuse & neglect records – [UCA § 62A-4a-412](#) – designated as private, controlled or protected
- Cohabitant abuse incident reports – [UCA § 77-36-2.2\(6\)](#) – requiring access to victim
- Criminal history record information – [UCA § 53-10-108\(4\)](#) – prosecutor only may provide defendant’s history to defense attorney – no provision for providing copies of witnesses’ information absent court order
- Expunged records – [UCA § 77-40-108](#) – may not divulge records without court order
- M.E. reports – [UCA § 26-4-17](#) – protected, but may be released to decedent’s next of kin
- Presentence investigations – [UCA § 77-18-1\(5\)\(e\)](#) – protected and only available for purposes of sentencing
- Children’s Justice Center interviews – [UCA § 77-37-4\(5\)\(c\)](#) – protected – only accessible by prosecutor, AG’s office, law enforcement, and attorney for child